

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BOBBY R. KNOX, JR.)	
)	
Plaintiff,)	
)	
v.)	1:14CV92
)	
ARTHUR DAVIS, et al.,)	
)	
Defendant(s).)	

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a prisoner of the State of North Carolina, submitted a civil rights action pursuant to 42 U.S.C. § 1983, together with an application to proceed *in forma pauperis* and an Amended Complaint. The form of the Complaint and Amended Complaint are such that serious flaws make it impossible to further process them. The problems are:

1. Plaintiff must name the persons who are actually responsible for the alleged violations of his constitutional rights. Plaintiff makes general allegations, but does not associate any of them with the named Defendants.
2. There are significant problems with Plaintiff's claims. They are often confused and rambling, sometimes having to do with a separate child support action and a federal detainer. He also raises an unexplained allegation of retaliation. Plaintiff must state any claims in an understandable manner. Further, it appears that Plaintiff's medical treatment claim may be the same as those raised in Knox v. Davis, N. 5:11-ct-03266-F (E.D.N.C.), which was dismissed for failing to state a claim for relief. If so, he cannot now reraise those claims. Finally, Plaintiff seeks to attack his sentence. He cannot do this through § 1983, but would instead have to file any claims attacking his sentence in a habeas corpus petition under 28 U.S.C. § 2254.

Consequently, the Complaint should be dismissed, but without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms, which corrects the defects of the present Complaint. To the extent Plaintiff chooses to file a new Complaint, the Court also notes that it appears that the potential defendants may be located in the Eastern or Western Districts of North Carolina. Also, Plaintiff is housed in the Western District of North Carolina. The events challenged in the Complaint appear to have occurred in those districts as well. Therefore, it appears that venue would be proper in one of those Districts. Plaintiff may obtain forms and instructions from the Clerk's Offices for filing in those Districts. See 28 U.S.C. § 1391(b). The addresses are: 310 New Bern Avenue, Room 574, Raleigh, NC 27601 (Eastern District) and Room 210, Charles R. Jonas Federal Building, 401 West Trade Street, Charlotte, NC 28202 (Western District).¹

In forma pauperis status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation.

¹ If Plaintiff chooses to re-file his complaint here in this District, he should correct all of the matters noted above and should also include a statement addressing the proper venue in this case, for the Court's consideration in determining whether this case must be transferred to a proper district pursuant to 28 U.S.C. § 1406.

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a new complaint or habeas petition, on the proper forms, which corrects the defects cited above and is filed in a proper district.

This, the 18th day of February, 2014.



Joe L. Webster
United States Magistrate Judge